

SENATE BILL NO. 177

INTRODUCED BY RYAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN SCHOOL FINANCE LAWS; INCREASING THE PER-ANB ENTITLEMENTS FOR PUBLIC SCHOOLS ~~BY \$250~~ FOR SCHOOL FISCAL YEAR 2006 AND SCHOOL FISCAL YEAR 2007; EXTENDING THE TIME PERIOD IN WHICH A SCHOOL DISTRICT CAN ADOPT A GENERAL FUND BUDGET THAT EXCEEDS THE MAXIMUM; PROVIDING FOR 3-YEAR AVERAGING OF ANB FOR SCHOOL DISTRICTS WITH DECLINING ~~AND INCREASING~~ ENROLLMENT FOR SCHOOL FISCAL YEAR 2006 AND SCHOOL FISCAL YEAR 2007; AMENDING SECTIONS 20-5-323, 20-7-102, 20-9-306, 20-9-308, 20-9-311, AND 20-9-314, AND 20-9-321, MCA; AND PROVIDING ~~AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE~~ EFFECTIVE DATES, APPLICABILITY DATES, AND TERMINATION DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

SECTION 1. SECTION 20-5-323, MCA, IS AMENDED TO READ:

"20-5-323. Tuition and transportation rates. (1) Except as provided in subsections (2) through (5), whenever a child has approval to attend a school outside of the child's district of residence under the provisions of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the per-ANB maximum rate established in 20-9-306 for the year of attendance.

(2) The tuition for a child with a disability must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for special education pupils.

(3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student without disabilities who requires a program with costs that exceed the average district costs must be determined as the actual individual costs of providing that program according to the following:

(a) the district of attendance and the district, person, or entity responsible for the tuition payments shall approve an agreement with the district of attendance for the tuition cost;

(b) for a Montana resident student, 80% of the maximum per-ANB rate established in ~~20-9-306(10)~~, 20-9-306 received in the year for which the tuition charges are calculated must be subtracted from the per-student program costs for a Montana resident student; and

(c) the maximum tuition rate paid to a district under this section may not exceed \$2,500 per ANB.

(4) When a child attends a public school of another state or province, the amount of daily tuition may not be greater than the average annual cost for each student in the child's district of residence. This calculation for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal year. For the purposes of this subsection, the following do not apply:

(a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;

(b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;

(c) an order issued under Title 40, chapter 4, part 2; or

(d) out-of-state placement by a state agency.

(5) When a child is placed by a state agency in an out-of-state residential facility, the state agency making the placement is responsible for the education costs resulting from the placement.

(6) The amount, if any, charged for transportation may not exceed the lesser of the average transportation cost for each student in the child's district of residence or 25 cents a mile. The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year."

SECTION 2. SECTION 20-7-102, MCA, IS AMENDED TO READ:

"20-7-102. Accreditation of schools. (1) The conditions under which each elementary school, each middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school operates must be reviewed by the superintendent of public instruction to determine compliance with the standards of accreditation. The accreditation status of every school must then be established by the board of public education upon the recommendation of the superintendent of public instruction. Notification of the accreditation status for the applicable school year or years must be given to each district by the superintendent of public instruction.

(2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that multiyear accreditation may only be granted to schools that are in compliance with 20-4-101.

(3) A nonpublic school may, through its governing body, request that the board of public education accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

(4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary

1 school district or K-12 district elementary program whose 7th and 8th grades are funded as provided in
2 ~~20-9-306(10)(c)(i)~~ 20-9-306(11)(c)(ii)."

3
4 **Section 3.** Section 20-9-306, MCA, is amended to read:

5 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
6 definitions apply:

7 (1) "BASE" means base amount for school equity.

8 (2) "BASE aid" means:

9 (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the
10 general fund budget of a district; and

11 (b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement,
12 up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the
13 special education allowable cost payment.

14 (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the
15 basic entitlement, 80% of the total per-ANB entitlement, and up to 140% of the special education allowable cost
16 payment.

17 (4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may
18 be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through
19 20-9-369.

20 (5) "BASE funding program" means the state program for the equitable distribution of the state's share
21 of the cost of Montana's basic system of public elementary schools and high schools, through county
22 equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in
23 support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

24 (6) "Basic entitlement" means:

25 (a) ~~\$220,646~~ \$225,273 for each high school district;

26 (b) ~~\$19,859~~ \$20,275 for each elementary school district or K-12 district elementary program without an
27 approved and accredited junior high school or middle school; and

28 (c) the prorated entitlement for each elementary school district or K-12 district elementary program with
29 an approved and accredited junior high school or middle school, calculated as follows using either the current
30 year ANB or the 3-year ANB provided for in 20-9-311:

(i) ~~\$19,859~~ \$20,275 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) ~~\$220,646~~ \$225,273 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

~~(7)~~(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

~~(8)~~(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

~~(9)~~(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

~~(10)~~(11) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$5,371~~ ~~\$5,621~~ \$5,534 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of ~~\$4,031~~ ~~\$4,281~~ \$4,366 for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:

(i) a maximum rate of ~~\$4,031~~ ~~\$4,281~~ \$4,366 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~\$5,371~~ ~~\$5,621~~ \$5,534 for the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB."

SECTION 4. SECTION 20-9-306, MCA, IS AMENDED TO READ:

"20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district; and

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, and up to 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) ~~\$220,646~~ \$230,199 for each high school district;

(b) ~~\$19,859~~ \$20,718 for each elementary school district or K-12 district elementary program without an approved and accredited junior high school or middle school; and

(c) the prorated entitlement for each elementary school district or K-12 district elementary program with an approved and accredited junior high school or middle school, calculated as follows using either the current

year ANB or the 3-year ANB provided for in 20-9-311:

(i) ~~\$19,859~~ \$20,718 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8; plus

(ii) ~~\$220,646~~ \$230,199 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

~~(7)(8)~~ "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

~~(8)(9)~~ "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

~~(9)(10)~~ "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

~~(10)(11)~~ "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$5,371~~ \$5,654 for the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school or middle school, a maximum rate of ~~\$4,031~~ \$4,456 for the first ANB is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school or middle school, the sum of:

(i) a maximum rate of ~~\$4,031~~ \$4,456 for the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of

1 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

2 (ii) a maximum rate of ~~\$5,374~~ \$5,654 for the first ANB for grades 7 and 8 is decreased at the rate of 50
3 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800
4 receiving the same amount of entitlement as the 800th ANB."

5
6 **SECTION 5. SECTION 20-9-308, MCA, IS AMENDED TO READ:**

7 **"20-9-308. BASE budgets and maximum general fund budgets.** (1) The trustees of a district shall
8 adopt a general fund budget that is at least equal to the BASE budget established for the district and, except as
9 provided in subsection (3), does not exceed the maximum general fund budget established for the district.

10 (2) Whenever the trustees of a district adopt a general fund budget that exceeds the BASE budget for
11 the district but does not exceed the maximum general fund budget for the district, the trustees shall submit a
12 proposition to the electors of the district, as provided in 20-9-353.

13 (3) (a) (i) Except as provided in subsection (3)(a)(ii), the trustees of a school district whose previous
14 year's general fund budget exceeds the current year's maximum general fund budget amount may adopt a
15 general fund budget up to the maximum general fund budget amount or the previous year's general fund budget,
16 whichever is greater. A school district may adopt a budget under the criteria of this subsection (3)(a)(i) for a
17 maximum of 5 ~~6~~ consecutive years, but the trustees shall adopt a plan to reach the maximum general fund
18 budget by no later than the end of the 5-year ~~6-year~~ period. ~~A school district whose adopted general fund budget~~
19 ~~for the previous year exceeds the maximum general fund budget for the current year and whose ANB for the~~
20 ~~previous year exceeds the ANB for the current year by 30% or more shall reduce its adopted budget by:~~

21 ~~——— (A) in the first year, 20% of the range between the district's adopted general fund budget for the~~
22 ~~previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

23 ~~——— (B) in the second year, 25% of the range between the district's adopted general fund budget for the~~
24 ~~previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

25 ~~——— (C) in the third year, 33.3% of the range between the district's adopted general fund budget for the~~
26 ~~previous school fiscal year and the maximum general fund budget for the current school fiscal year;~~

27 ~~——— (D) in the fourth year, 50% of the range between the district's adopted general fund budget for the~~
28 ~~previous school fiscal year and the maximum general fund budget for the current school fiscal year; and~~

29 ~~——— (E) in the fifth year, the remainder of the range between the district's adopted general fund budget for~~
30 ~~the previous school fiscal year and the maximum general fund budget for the current school fiscal year.~~

(ii) The trustees of a district whose general fund budget was above the maximum general fund budget established by Chapter 38, Special Laws of November 1993, and whose general fund budget has continued to exceed the district's maximum general fund budget in each school fiscal year after school fiscal year 1993 may continue to adopt a general fund budget that exceeds the maximum general fund budget. However, the budget adopted for the current year may not exceed the lesser of:

(A) the adopted budget for the previous year; or

(B) the district's maximum general fund budget for the current year plus the over maximum budget amount adopted for the previous year.

(b) The trustees of the district shall submit a proposition to raise any general fund budget amount that is in excess of the maximum general fund budget for the district to the electors who are qualified under 20-20-301 to vote on the proposition, as provided in 20-9-353.

(4) The BASE budget for the district must be financed by the following sources of revenue:

(a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the district may be eligible, as provided in 20-9-366 through 20-9-369;

(b) county equalization aid, as provided in 20-9-331 and 20-9-333;

(c) a district levy for support of a school not approved as an isolated school under the provisions of 20-9-302;

(d) payments in support of special education programs under the provisions of 20-9-321;

(e) nonlevy revenue, as provided in 20-9-141; and

(f) a BASE budget levy on the taxable value of all property within the district.

(5) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all property within the district or other revenue available to the district, as provided in 20-9-141."

Section 6. Section 20-9-311, MCA, is amended to read:

"20-9-311. Calculation of average number belonging (ANB) -- 3-year averaging. (1) Average number belonging (ANB) must be computed for each budget unit as follows:

(a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of the pupil-instruction and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than 180 school days under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) Enrollment for a part of a morning session or a part of an afternoon session by a pupil must be counted as enrollment for one-half day.

(5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment at a regular session of the program for at least 2 hours of either a morning or an afternoon session must be counted as one-half pupil for ANB purposes. The ANB for a kindergarten student may not exceed one-half for each kindergarten pupil.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the district, except that the ANB is calculated as a separate budget unit when:

(a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled, full-time pupils of the school must be calculated ~~separately~~ as a separate budget unit for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when conditions

1 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any
2 other condition exists that would result in an unusual hardship to the pupils of the school if they were transported
3 to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately
4 for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the
5 other schools of the district; or

6 (iv) two or more elementary districts consolidate or annex under the provisions of 20-6-203, 20-6-205,
7 or 20-6-208, two or more high school districts consolidate or annex under the provisions of 20-6-315 or 20-6-317,
8 or two or more K-12 districts consolidate or annex under Title 20, chapter 6, part 4, the ANB and the basic
9 entitlements of the component districts must be calculated separately for a period of 3 years following the
10 consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years
11 as follows:

12 (A) 75% of the basic entitlement for the fourth year;

13 (B) 50% of the basic entitlement for the fifth year; and

14 (C) 25% of the basic entitlement for the sixth year.

15 (b) a junior high school has been approved and accredited as a junior high school, all of the regularly
16 enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB
17 purposes;

18 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be
19 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered
20 high school pupils for ANB purposes; or

21 (d) a school has not been accredited by the board of public education, the regularly enrolled, full-time
22 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,
23 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding
24 program for the district.

25 (9) The district shall provide the superintendent of public instruction with semiannual reports of school
26 attendance, absence, and enrollment for regularly enrolled students, using a format determined by the
27 superintendent.

28 ~~—— (10) (a) After calculating a district's basic entitlement and total per-ANB entitlement using the 3-year~~
29 ~~ANB, the calculation must be used for general fund budgeting and funding purposes for school districts in~~
30 ~~existence for 3 years or more.~~

~~_____ (b) The ANB of a school district that has existed less than 3 years must be calculated using the current year ANB enrollment.~~

(10) (A) FOR A SCHOOL DISTRICT THAT HAS BEEN IN EXISTENCE FOR 3 OR MORE YEARS, THE DISTRICT'S MAXIMUM GENERAL FUND BUDGET AND BASE BUDGET FOR THE ENSUING YEAR MUST BE CALCULATED USING THE CURRENT YEAR ANB OR THE 3-YEAR AVERAGE ANB, WHICHEVER GENERATES THE GREATEST MAXIMUM GENERAL FUND BUDGET.

(B) FOR A DISTRICT THAT HAS EXISTED LESS THAN 3 YEARS, THE MAXIMUM GENERAL FUND BUDGET AND BASE BUDGET MUST BE CALCULATED USING THE CURRENT YEAR ANB.

(11) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection (11)(a) by three."

Section 7. Section 20-9-314, MCA, is amended to read:

"20-9-314. Procedures for determining eligibility and amount of increased average number belonging due to unusual enrollment increase. A district that anticipates an unusual increase in enrollment in the ensuing school fiscal year, as provided for in 20-9-313(4), may increase its basic entitlement and total per-ANB entitlement for the ensuing school fiscal year in accordance with the following provisions:

(1) Prior to June 1, the district shall estimate the elementary or high school enrollment to be realized during the ensuing school fiscal year, based on as much factual information as may be available to the district.

(2) No later than June 1, the district shall submit its application for an unusual enrollment increase by elementary or high school level to the superintendent of public instruction. The application must include:

(a) the enrollment for the current school fiscal year;

(b) the average number belonging used to calculate the basic entitlement and total per-ANB entitlement for the current school fiscal year;

(c) the average number belonging that will be used to calculate the basic entitlement and total per-ANB entitlement for the ensuing school fiscal year;

(d) the estimated enrollment, including the factual information on which the estimate is based, as provided in subsection (1); and

(e) any other information or data that may be requested by the superintendent of public instruction.

(3) The superintendent of public instruction shall immediately review all the factors of the application

1 and shall approve or disapprove the application or adjust the estimated average number belonging for the
2 ensuing ANB calculation period. After approving an estimate, with or without adjustment, the superintendent of
3 public instruction shall:

4 (a) determine the percentage ~~increase~~ by which the estimated enrollment ~~increase~~ exceeds the ~~current~~
5 enrollment ~~used for determining the 3-year ANB provided for in 20-9-311~~ THE BUDGETED ANB; and

6 (b) approve an increase of the average number belonging used to establish the ensuing year's basic
7 entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection (3)(a)
8 is ~~at least~~ GREATER THAN 6%.

9 (4) The superintendent of public instruction shall notify the district of the decision by the fourth Monday
10 in June.

11 (5) Whenever an unusual enrollment increase is approved by the superintendent of public instruction,
12 the increase of the average number belonging used to establish the basic entitlement and total per-ANB
13 entitlement for the ensuing ANB calculation period is ~~the difference between the determined using the estimated~~
14 DIFFERENCE BETWEEN THE enrollment for the ensuing school fiscal year and ~~106% of the current enrollment. The~~
15 ~~amount determined is the maximum allowable increase added to the average number belonging for the purpose~~
16 ~~of establishing the ensuing year's basic entitlement and total per-ANB entitlement 6% of the enrollment for the~~
17 ~~3-year ANB provided for in 20-9-311~~ 106% OF THE ENROLLMENT USED TO CALCULATE THE BUDGETED ANB. THE
18 AMOUNT DETERMINED IS THE MAXIMUM ALLOWABLE INCREASE ADDED TO THE AVERAGE NUMBER BELONGING FOR THE
19 PURPOSE OF ESTABLISHING THE ENSUING YEAR'S BASIC ENTITLEMENT AND TOTAL PER-ANB ENTITLEMENT.

20 (6) (a) Any entitlement increases resulting from provisions of this section must be reviewed at the end
21 of the ensuing school fiscal year.

22 (b) If the actual enrollment is less than ~~the average number belonging used for BASE funding program~~
23 ~~and entitlement calculations the estimated enrollment under subsection (2)(d)~~ ENROLLMENT USED TO DETERMINE
24 BUDGETED ANB, the superintendent of public instruction shall revise the ~~ANB used to establish the~~ total per-ANB
25 entitlement and basic entitlement calculations, AS PROVIDED IN SUBSECTION (5), using the ~~actual average number~~
26 ~~belonging ACTUAL enrollment for the ensuing school fiscal year minus 6% of the enrollment used to calculate the~~
27 ~~3-year ANB provided for in 20-9-311~~ IN PLACE OF THE ESTIMATED ENROLLMENT.

28 (c) All total per-ANB entitlements received by the district in excess of the revised entitlements calculated
29 in subsection (6)(b) are overpayments subject to the refund provisions of 20-9-344(4)."

30

1 **SECTION 8. SECTION 20-9-321, MCA, IS AMENDED TO READ:**

2 **"20-9-321. Allowable cost payment for special education.** (1) As used in this section, "ANB" means
3 the current year ANB.

4 (2) The 3-year average ANB provided for in 20-9-311(10) does not apply to the calculation and
5 distribution of state special education allowable cost payments provided for in this section.

6 (3) For the purpose of establishing the allowable cost payment for a current year special education
7 program for a school district, the superintendent of public instruction shall determine the total special education
8 payment to a school district, cooperative, or joint board for special education services formed under 20-3-361
9 prior to July 1, 1992, using the following factors:

10 (a) the district ANB student count as established pursuant to 20-9-311 and 20-9-313;

11 (b) a per-ANB amount for the special education instructional block grant;

12 (c) a per-ANB amount for the special education-related services block grant;

13 (d) an amount for cooperatives or joint boards meeting the requirements of 20-7-457, to compensate
14 for the additional costs of operations and maintenance, travel, supportive services, recruitment, and
15 administration; and

16 (e) any other data required by the superintendent of public instruction to administer the provisions of
17 this section.

18 ~~(2)(4)~~ (a) The total special education allocation must be distributed according to the following formula:

19 (i) 52.5% through instructional block grants;

20 (ii) 17.5% through related services block grants;

21 (iii) 25% to reimbursement of local districts; and

22 (iv) 5% to special education cooperatives and joint boards for administration and travel.

23 (b) Special education allowable cost payments outlined in subsection ~~(2)(a)~~ (4)(a) must be granted to
24 each school district and cooperative with a special education program as follows:

25 (i) The instructional block grant limit prescribed in subsection ~~(2)(a)(i)~~ (4)(a)(i) must be awarded to each
26 school district, based on the district ANB and the per-ANB special education instructional amount.

27 (ii) The special education-related services block grant limit prescribed in subsection ~~(2)(a)(ii)~~ (4)(a)(ii)
28 must be awarded to each school district that is not a cooperative member, based on the district ANB and the
29 per-ANB special education-related services amount, or to a cooperative or joint board that meets the
30 requirements of 20-7-457. The special education-related services block grant amount for districts that are

members of approved cooperatives or a joint board must be awarded to the cooperatives or joint board.

(iii) If a district's allowable costs of special education exceed the total of the special education instructional and special education-related services block grant plus the required district match required by subsection ~~(4)~~ (6), the district is eligible to receive at least a 40% reimbursement of the additional costs. To ensure that the total of reimbursements to all districts does not exceed 25% of the total special education allocation limit established in subsection ~~(2)(a)(iii)~~ (4)(a)(iii), reimbursement must be made to districts for amounts that exceed a threshold level calculated annually by the office of public instruction. The threshold level is calculated as a percentage amount above the sum of the district's block grants plus the required district match.

(iv) Of the amount distributed under subsection ~~(2)(a)(iv)~~ (4)(a)(iv), three-fifths must be distributed based on the ANB count of the school districts that are members of the special education cooperative or joint board and two-fifths must be distributed based on distances, population density, and the number of itinerant personnel under rules adopted by the superintendent of public instruction.

~~(3)~~(5) The superintendent of public instruction shall adopt rules necessary to implement this section.

~~(4)~~(6) A district shall provide a 25% local contribution for special education, matching every \$3 of state special education instructional and special education-related services block grants with at least one local dollar. A district that is a cooperative member is required to provide the 25% match of the special education-related services grant amount to the special education cooperative.

~~(5)~~(7) The superintendent of public instruction shall determine the actual district match based on the trustees' reports. Any unmatched portion reverts to the state and must be subtracted from the district's ensuing year's special education allowable cost payment.

~~(6)~~(8) A district that demonstrates severe economic hardship because of exceptional special education costs may apply to the superintendent of public instruction for an advance on the reimbursement for the year in which the actual costs will be incurred."

NEW SECTION. Section 9. Effective date DATES -- applicability. ~~This (1) EXCEPT AS PROVIDED IN SUBSECTIONS (2) THROUGH (4), [THIS act]~~ is effective on passage and approval, and applies to school budgets for the school fiscal year YEARS beginning ON OR AFTER July 1, 2005.

(2) [SECTION 3] IS EFFECTIVE JULY 1, 2005, AND APPLIES TO SCHOOL BUDGETS FOR THE SCHOOL FISCAL YEAR BEGINNING JULY 1, 2005.

(3) [SECTION 4] IS EFFECTIVE JULY 1, 2006, AND APPLIES TO SCHOOL BUDGETS FOR THE SCHOOL FISCAL YEAR

1 BEGINNING JULY 1, 2006.

2 (4) [SECTION 10 AND THIS SECTION] ARE EFFECTIVE ON PASSAGE AND APPROVAL.

3

4 NEW SECTION. Section 10. Termination. ~~[This act]~~ (1) [SECTION 3] terminates June 30, 2006.

5 (2) [SECTIONS 1, 2, AND 4 THROUGH 8] TERMINATE JULY 1, 2007.

6 - END -